

MAINE STATE LEGISLATURE

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Date: 3/13/20 Majority

L.D. 1923
(Filing No. H-753)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1371, L.D. 1923, Bill, "An Act To Define as a Hazardous Substance under Maine Law Any Substance Defined under Federal Law as a Hazardous Substance, Pollutant or Contaminant"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Uncontrolled Hazardous Substance Sites'

Amend the bill by inserting after section 1 the following:

'Sec. 2. 38 MRSA §1367-B, as enacted by PL 1991, c. 811, §4 and affected by §7, is amended to read:

§1367-B. Limited exemption exemptions from liability for state or local governmental entities

1. Limited exemption from liability for state or local governmental entities. Liability under section 1367 does not apply to the State or any political subdivision that acquired ownership or control of an uncontrolled hazardous substance site through tax delinquency proceedings pursuant to Title 36, or through any similar statutorily created procedure for the collection of governmental taxes, assessments, expenses or charges, or involuntarily through abandonment, or in circumstances in which the State or political subdivision involuntarily acquired ownership or control by virtue of its function as a sovereign. The exemption from liability provided under this subsection does not apply to the State or any political subdivision that has caused, contributed to or exacerbated a release or threatened release of a hazardous substance on or from the uncontrolled site.

1-A. Limited exemption from liability for publicly owned treatment works. A publicly owned treatment works is exempt from liability under section 1367 as a responsible party under section 1362, subsection 2, paragraph C based on the contribution by the publicly owned treatment works of effluent or sewage sludge to an uncontrolled site, except that the exemption does not apply if the commissioner determines that the publicly owned treatment works:

COMMITTEE AMENDMENT

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- 1 A. Has failed to follow best management practices for the disposal or use of effluent
- 2 or sewage sludge;
- 3 B. Has failed to comply with an information request or administrative subpoena
- 4 issued by the department under this chapter; or
- 5 C. Has impeded or is impeding, through action or inaction, the performance of a
- 6 response action or natural resources restoration at the uncontrolled site.

7 For the purposes of this subsection, "publicly owned treatment works" has the same
8 meaning as in section 361-A, subsection 3-D.

9 **1-B. Limited exemption from liability for public water systems.** A public water
10 system is exempt from liability under section 1367 as a responsible party under section
11 1362, subsection 2, paragraph C based on the contribution by the public water system of
12 water treatment residuals to an uncontrolled site, except that the exemption does not
13 apply if the commissioner determines that the public water system:

- 14 A. Has failed to follow best management practices for the disposal or use of water
- 15 treatment residuals;
- 16 B. Has failed to comply with an information request or administrative subpoena
- 17 issued by the department under this chapter; or
- 18 C. Has impeded or is impeding, through action or inaction, the performance of a
- 19 response action or natural resources restoration at the uncontrolled site.

20 For the purposes of this subsection, "public water system" has the same meaning as in the
21 federal Safe Drinking Water Act Amendments of 1996, 42 United States Code, Section
22 300f.

23 **2. Reimbursement for department expenses.** Notwithstanding the exemption from
24 liability provided in subsection 1, the State or any political subdivision that acquires or
25 has acquired ownership of property that encompasses an uncontrolled hazardous
26 substance site pursuant to any of the proceedings referred to in subsection 1 is liable for
27 any costs incurred by the department pursuant to this chapter during the period in which
28 the State or political subdivision had ownership of the property, up to the amount of the
29 proceeds from the sale or disposition of the property minus the out-of-pocket costs of the
30 sale or disposition.

31 **Sec. 3. Report.** On or before January 15, 2022, the Department of Environmental
32 Protection shall report to the joint standing committee of the Legislature having
33 jurisdiction over environment and natural resources matters regarding uncontrolled
34 hazardous substance sites where the department, pursuant to its authority under the Maine
35 Revised Statutes, Title 38, chapter 13-B, has required a responsible party to investigate or
36 remove a hazardous substance that is a pollutant or contaminant under Title 38, section
37 1362, subsection 1, paragraph C-1 and, for each such site, the common name and
38 chemical abstract system registry number of the hazardous substance investigated or
39 removed.'

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
41 section number to read consecutively.

COMMITTEE AMENDMENT

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SUMMARY

This amendment, which is the majority report of the committee, changes the title of the bill, retains the provision of the bill that adds a new definition to the term "hazardous substance" under the State's uncontrolled hazardous substance sites law and makes the following additional changes.

1. It provides a limited exemption from liability for publicly owned treatment works based on the contribution by the publicly owned treatment works of effluent or sewage sludge to an uncontrolled hazardous substance site.

2. It provides a limited exemption from liability for public water systems based on the contribution by the public water system of water treatment residuals to an uncontrolled hazardous substance site.

3. It requires that, on or before January 15, 2022, the Department of Environmental Protection report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the investigation or removal of hazardous substances that are pollutants or contaminants at certain uncontrolled hazardous substance sites.

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/10/20 *MAC*

129th MAINE LEGISLATURE

LD 1923

LR 3002(02)

An Act To Define as a Hazardous Substance under Maine Law Any Substance Defined under Federal Law as a Hazardous Substance, Pollutant or Contaminant

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

A"(H-753)

Fiscal Note

Potential future biennium cost increase - Other Special Revenue Funds
Potential future biennium revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may decrease the number of civil suits filed in the court system. The Judicial Branch may realize some minor reduction of workload and administrative costs associated with the minimal number of cases that will no longer be filed. Collection of filing fees may decrease General Fund revenue by minor amounts.

Fiscal Detail and Notes

The addition of new definitions to the "hazardous substance" term under the State's Uncontrolled Hazardous Substance Sites law may expand the scope of investigation and remediation that the Department of Environmental Protection (DEP) conducts. DEP may elect to designate additional sites as uncontrolled sites in future years, which may result in additional expenditures made from and revenues credited to the Uncontrolled Sites Fund. No estimate of these expenditures and revenues is made at this time.